

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date: June 14, 2010
	Agenda Item No. 80 Roll Call No. [Roll Call] Communication No. <u>10-365</u> Submitted by: Larry Hulse, Community Development Director

AGENDA HEADING:

Review of the May 26, 2010 decision of the Board of Adjustment to conditionally approve a use variance to allow temporary retention of a contractor's outdoor storage yard at 5101 Southeast 40th Street. The subject property is zoned "A-1" Agricultural District and is owned by Kingston Properties, LLC, 201 West Court Avenue, Winterset, IA 50273.

SYNOPSIS:

On April 28, 2010, the Zoning Board of Adjustment voted 4-1 to approve a use variance requested to allow temporary use of a property in an "A-1" Agricultural District as a contractor's outdoor storage yard subject to the following conditions:

1. Any use of the property for a contractor's storage yard shall cease within six (6) months or no later than October 28, 2010.
2. There shall be no outdoor storage of vehicles or junk and debris associated with any contractor's storage yard during the six (6) months ending October 28, 2010 during which the contractor's storage yard is permitted to remain.
3. The Decision and Order shall be presented to the Board for ratification (approval) on May 26, 2010.

The Decision and Order of the Zoning Board of Adjustment's action was executed under the signature of Chairman Bill Gray on May 26, 2010. Pursuant to Section 135-65 of the City Code, the City Council shall review the Board's decision within 30 days after the decision is filed. After such review, the City Council may remand the decision to the Board for further study. If the City Council declines to remand the decision, that decision shall become final on the date of the City Council's action (June 14, 2010). Staff recommends that the City Council not remand the Board's decision.

FISCAL IMPACT: NONE

Amount: N/A

Funding Source: N/A

ADDITIONAL INFORMATION:

The property contains three metal outbuildings and an office building that appears to be a converted single-family dwelling. The subject property contains 0.62 acres and is located approximately 0.8 miles north of East Army Post Road and 0.8 miles west of the Hwy 65 Bypass. It is in an area generally made up of undeveloped land with large lot single-family residences along the few streets in the area. The property is accessed by a single drive to Southeast 40th Street. The surrounding street system consists of narrow 2-lane rural cross sections.

On February 22, 2010, by Roll Call 10-308, the City Council denied a request to rezone the property from “A-1” (Agricultural) to “M-1” (Light Industrial) to allow the property to continue to be used as a contractor’s outdoor storage yard. The property owner had indicated that the property was used as a contractor storage yard prior to it being annexed into the City on June 26, 2009. The property was agriculturally zoned under the Polk County Zoning Ordinance, which does not allow contractor storage yards. Therefore, the subject use did not have legal non-conforming rights as it was not legally established

Kingston Properties, LLC is a subsidiary of Union State Bank, which received the subject property in foreclosure from a borrower.

The property (5101 Southeast 40th Street) and the two parcels to the west were subdivided without City approval between 2001 and 2004. A Plat of Survey that meets the City’s requirements must be submitted and approved by the City to legitimize this subdivision.

PREVIOUS COUNCIL ACTION(S):

Date: February 22, 2010.

Roll Call Number: 10-307 and 10-308.

Action: Receive and file communication from the Plan and Zoning Commission regarding request to amend the Des Moines 2020 Community Character Plan future land use designation from “Agricultural” to “General Industrial”. Moved by Meyer to receive, file and deny the proposed amendment. Motion Carried 7-0. Public hearing on rezoning of property from “A-1” (Agricultural) to “M-1” (Light Industrial). Moved by Meyer to deny. Motion carried 7-0.

PLAN & ZONING COMMISSION ACTION(S):

Date: January 21, 2010.

Docket Number: ZON2009-00229.

Action: Recommend denial of request for rezoning to “M-1” (Light Industrial).

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE

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